

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Karina Herrera	Team: Squad #7	CCRB Case #: 201907917	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/10/2019 6:00 AM	Location of Incident: [REDACTED]	Precinct: 70	18 Mo. SOL 1/10/2021	EO SOL 8/27/2021	
Date/Time CV Reported Fri, 09/06/2019 1:13 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 09/06/2019 1:13 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Lawrence Hotaling	02671	897695	INT CIS
2. DTS Paul McCartney	04238	938977	E S U
3. POM Joseph Tennariello	12821	952285	ESS 07
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Salvatore Melore	4826	952004	PBBN SU
2. SDS David Cheesewright	01990	913752	INT CIS
3. POM Darion Francis	20199	954823	077 PCT
4. POM Joseph Solomito	14389	952258	PBBN SU
5. DTS Reginald Smith	4482	951278	PBBN SU
6. SGT Michael Demonda	427	945659	077 PCT
7. POM Carlos Herrera	23317	952847	073 PCT
8. DT2 Matthew Vahey	07959	907488	E S U
9. DTS Terry Avent	01029	932280	E S U
10. DTS Keith Stylianos	5484	929222	ESS 10
11. DTS James Seery	05483	931985	E S U
12. SGT Matthew Zucker	05643	942840	ESS 09
13. DT2 Jeffrey Rivera	07887	911787	E S U

Officer(s)	Allegation	Investigator Recommendation
A.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling entered § 87(2)(b) in Brooklyn.	[REDACTED]
B.POM Joseph Tennariello	Force: Police Officer Joseph Tennariello pointed his gun at § 87(2)(b)	[REDACTED]
C. An officer	Off. Language: An officer made remarks to an individual based upon race.	[REDACTED]
D.DTS Paul McCartney	Force: Detective Paul McCartney used a chokehold against § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
E.DTS Paul McCartney	Force: Detective Paul McCartney pointed his gun at § 87(2)(b)	
F.DTS Paul McCartney	Discourtesy: Detective Paul McCartney spoke discourteously to § 87(2)(b)	
G.DTS Paul McCartney	Force: Detective Paul McCartney used physical force against § 87(2)(b)	
H.DTS Paul McCartney	Force: Detective Paul McCartney restricted § 87(2)(b) breathing.	
I.DT2 Lawrence Hotaling	Abuse: Detective Lawrence Hotaling searched § 87(2)(b) in Brooklyn.	

### Case Summary

On September 6, 2019, § 87(2)(b) filed the following complaint with the CCRB in-person.

At approximately 6:00 a.m. on July 10, 2019, pursuant to a search warrant that was issued to Detective Lawrence Hotaling from the Intel Criminal Section, several officers including Detective Paul McCartney and Police Officer Joseph Tennariello from the Emergency Services Unit (ESU) entered § 87(2)(b) apartment located at § 87(2)(b) in Brooklyn while he was home with his § 87(2)(b)-year-old daughter, § 87(2)(b) and his § 87(2)(b)-year-old stepson, § 87(2)(b) (**Allegation A: Abuse of Authority – Entry of Premises,** § 87(2)(g)). Some officers entered § 87(2)(b) bedroom, including Police Officer Tennariello, and they allegedly pointed their firearms at her (**Allegation B: Force – Gun Pointed,** § 87(2)(g)).

While § 87(2)(b) was inside of his bedroom with the door closed, he heard a voice outside of the room say, “Shut up, nigger” (**Allegation C: Offensive Language – Race,** § 87(2)(g)). Immediately afterwards, some ESU officers entered § 87(2)(b) bedroom, including Detective McCartney, and Detective McCartney allegedly grabbed the front of § 87(2)(b) neck while he was laying on his bed (**Allegation D: Force – Chokehold,** § 87(2)(g)). Detective McCartney allegedly pointed his firearm at § 87(2)(b) face while he was holding onto his neck and he told him, “Shut the fuck up” (**Allegation E: Force - Gun Pointed,** § 87(2)(g)). (**Allegation F: Discourtesy – Word,** § 87(2)(g)). Detective McCartney then allegedly pushed § 87(2)(b) against a wall and he threw him on the floor (**Allegation G: Force – Physical Force,** § 87(2)(g)). Detective McCartney allegedly placed his knee on § 87(2)(b) back while he was on the floor, which restricted his breathing (**Allegation H: Force – Restricted Breathing,** § 87(2)(g)). The ESU officers eventually left the incident location, and additional officers entered the apartment and searched it pursuant to the search warrant (Board Review 01) (**Allegation I: Abuse of Authority – Search of Premises,** § 87(2)(g)).

The officers arrested § 87(2)(b) during the incident for criminal possession of a weapon in the second degree and criminal possession of a weapon in the fourth degree (Board Review 02). The NYPD Legal Department found seven Body-Worn Camera (BWC) videos in regards to this incident (Board Review 03). ESU officers were not equipped with BWCs at the time of the incident, so Police Officer Tennariello and Detective McCartney did not record any BWC footage.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Detective Lawrence Hotaling entered § 87(2)(b) in Brooklyn.**

**Allegation (B) Force: Police Officer Joseph Tennariello pointed his gun at § 87(2)(b)**

**Allegation (C) Offensive Language: An officer made remarks to an individual based upon race.**

**Allegation (I) Abuse of Authority: Detective Lawrence Hotaling searched § 87(2)(b) in Brooklyn.**

§ 87(2)(b) stated that he was sleeping inside of his bedroom with the door closed when officers forcibly entered his apartment (Board Review 04). In that moment, § 87(2)(b) heard a male voice whispering, “Shut up, nigger,” approximately three times outside of his bedroom, but the door was closed at the time, so he did not know who made those statements because he could not see them. The officers eventually searched § 87(2)(b) apartment.

§ 87(2)(b) stated that she was sleeping inside of her bedroom when the officers entered the apartment (Board Review 05). Two officers in uniform went to § 87(2)(b) bedroom and they

pointed their firearms at her. The officers told § 87(2)(b) "Don't move." After approximately two minutes, an officer in plainclothes entered § 87(2)(b) bedroom and he told the other officers that they could leave. The officers in uniform stopped pointing their firearms at § 87(2)(b) and they left her bedroom. § 87(2)(b) did not remember if the officers used any offensive language during the incident.

The investigation contacted § 87(2)(b) for a statement, but he was uncooperative.

Search Warrant #§ 87(2)(b) was a no-knock warrant issued to Detective Hotaling on § 87(2)(b) for § 87(2)(b) apartment because there was enough probable cause to believe that a firearm pertaining to § 87(2)(b) was present at the location; therefore, the search warrant authorized officers to enter the apartment without any prior notice to search it (Board Review 01).

§ 87(2)(b)'s Arrest Report showed that he was arrested on the incident date by Detective Salvatore Melore from the Patrol Borough Brooklyn North Specialized Unit because he was found to be in possession of a firearm pursuant to a search warrant that was executed (Board Review 02).

Detective Melore's BWC was the first BWC to record the incident, but the video did not start until after the entry already happened, so none of the BWC videos showed the initial entry (Board Review 06). However, the beginning of Detective Melore's BWC footage did show that the entry was done by ESU officers, and it captured the moment that Detective Melore searched the apartment, including the recovery of a firearm at two minutes and twenty seconds.

The ESU Report that was provided showed that Police Officer Tennariello went to the rear bedroom on the right where he encountered an § 87(2)(b) -year-old black female, determined to be § 87(2)(b) and he did not handcuff her (Board Review 07). The report also showed that Detective McCartney went to the rear bedroom where he handcuffed a § 87(2)(b) -year-old black male, determined to be § 87(2)(b). In his interview, Detective McCartney stated that he did not recall any officers who made offensive remarks during the incident, and he did not do that either (Board Review 17).

According to Criminal Procedure Law 690.30, a search warrant must be executed within ten days of its issuance and it can be done any day of the week between 6:00 a.m. and 9:00 p.m. unless the search warrant states otherwise (Board Review 08). In addition, Criminal Procedure Law 690.50 section 3 states that during a search warrant execution a police officer must give, or make a reasonable effort to give notice of their authority and purpose, and they may use deadly physical force if they reasonably believe it is necessary to defend against the use or imminent use of deadly physical force (Board Review 09).

§ 87(2)(b), § 87(2)(g)  
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**Allegation (D) Force: Detective Paul McCartney used a chokehold against § 87(2)(b)**

**Allegation (E) Force: Detective Paul McCartney pointed his gun at § 87(2)(b)**

**Allegation (F) Discourtesy: Detective Paul McCartney spoke discourteously to § 87(2)(b)**

**Allegation (G) Force: Detective Paul McCartney used physical force against § 87(2)(b)**

**Allegation (H) Force: Detective Paul McCartney restricted § 87(2)(b) breathing.**

§ 87(2)(b) was laying on his bed when three uniformed officers entered his room, including Detective McCartney who immediately approached § 87(2)(b) and placed his hand on the front of § 87(2)(b) neck; § 87(2)(b) was still able to breathe at this time. With his other hand, Detective McCartney pointed his rifle towards § 87(2)(b) face and the nozzle of his firearm touched § 87(2)(b) nose. While holding the front of § 87(2)(b) neck, Detective McCartney told § 87(2)(b) “Get up! Get up!” § 87(2)(b) asked approximately three times, “Officer, what’s going on?” Detective McCartney said, “Get up! Shut the fuck up – shut the fuck up.” One of the other officers said, “Sir, you got to shut up – you got to comply.” § 87(2)(b) replied, “I am complying, but I don’t know what’s going on here.” In that moment, Detective McCartney lifted § 87(2)(b) from his bed by his neck and he pushed him face-forward against the wall above the headboard of his bed.

From the wall, Detective McCartney threw § 87(2)(b) face-forward onto his bedroom floor. § 87(2)(b) asked Detective McCartney, “Officer, what is the problem? If you’re going to search, search my room, but why are you beating up on me like that?” Detective McCartney told § 87(2)(b) “Shut the fuck up - shut the fuck up.” Detective McCartney grabbed § 87(2)(b) arms and he placed his knee on the center of § 87(2)(b) back, which restricted his breathing. Detective McCartney handcuffed § 87(2)(b) and then he took his knee off of § 87(2)(b) back to stand up, so § 87(2)(b) was able to breathe better. In that moment, an officer in plainclothes entered the bedroom and the officers in uniform left the incident location. After the incident, § 87(2)(b) went to Kings County Hospital in Brooklyn to receive treatment for neck pain.

§ 87(2)(b)

§ 87(2)(b) saw § 87(2)(b) in his bedroom arguing with one or two officers, but she could not describe them. § 87(2)(b) was telling the officers not to “treat him like that.” § 87(2)(b) could not remember if the officers used any profanity.

Detective McCartney stated that he did not have any independent recollection of this incident because as an ESU officer he has performed at least a hundred search warrant executions since the incident date, and as a permanent member of the Apprehension Team (A-Team), he conducts search warrant executions multiple times on a daily basis (Board Review 17).

§ 87(2)§ 87(2)(b), § 87(2)(g)

According to Disciplinary Case Law, when an officer uses an impolite word during a stressful encounter where that officer is attempting to gain control of a situation, the officer's profanity is not considered to be misconduct (DAO-DCT Case #201818951) (Board Review 10).

§ 87(2)(b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b)
- Detective Hotaling has been a member of service for thirty years and has been a subject in nine CCRB complaints and seventeen allegations, of which one was substantiated:
  - Case #9200443 involved a substantiated allegation of discourteous word. The Board recommended command discipline and the NYPD imposed that.
- Police Officer Tennariello has been a member of service for eight years and he has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. Police Officer Tennariello's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Detective McCartney has been a member of service for fifteen years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. Detective McCartney's CCRB history does not reflect any apparent pattern pertinent to this investigation.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.

• § 87(2)(b)

• § 87(2)(b)

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Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_